



Appeal Decision

Site visit made on 23 November 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Appeal Ref: APP/G5750/D/21/3281540

17 Earlham Grove, London E7 9AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Rina Malik against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/01309/PREHHA, dated 24 May 2021, was refused by notice dated 19 July 2021.
 - The development proposed is the construction of one additional storey immediately above the topmost storey of the dwellinghouse, which would extend the existing eaves height by 2.48m. This would result in the proposed eaves height being 7.80m and the maximum height being 10.4m.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of development in the banner heading above is taken from the first part of the description of development on the application form which adequately describes the development proposed.
 4. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permits development consisting of the enlargement of a dwellinghouse by construction of up to two additional storeys, where the existing dwellinghouse comprises two or more storeys, together with any reasonably necessary engineering operations.
 5. Development is permitted under Class AA subject to limitations and conditions and a requirement that the developer applies for prior approval to the local planning authority.
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Main Issues

6. The main issues are:

- i. whether prior approval should be granted for the external appearance of the dwellinghouse and for the impact on the amenity of any adjoining premises;
- ii. whether the proposal complies with the condition in paragraph AA.2.(3)(b) with regards to the submission of a report for the management of the construction of the development; and
- iii. whether the proposal complies with paragraph AA.3.(2)(c)(ii) with regards to the showing of the dimensions of the proposed windows.

Reasons for the Recommendation

External Appearance

7. The appeal site consists of a two-storey dwelling that is part of a terrace in Earlham Grove. The local area to the site is predominantly residential and is comprised of properties of a variety of differing sizes and designs, however the appeal property makes up part of a well-balanced terrace of two-storey houses that exhibit consistent heights, roof forms and external facing materials. Overall, the terrace has a cohesive appearance and rhythm which makes a positive contribution to the character of the street.
8. Paragraph AA.2.(3)(a)(ii) of Class AA requires prior approval to be sought for 'the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principle elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' The use of the word 'including' means that the lists that follow are not exhaustive and that other factors could affect the external appearance of the dwellinghouse. I am not aware of any caselaw or further guidance on the interpretation of the GPDO in this respect. However, I find it difficult to make an assessment of the external appearance of the dwellinghouse, or the merits of the principal elevation without reference to the context within which the proposal is situated. Two similar schemes may be acceptable or otherwise in different locations, depending on the nature of the surroundings. In my view, having regard to the context of the site does not go beyond the terms of the GDPO but merely forms part and parcel of consideration of my assessment of the external appearance of the dwellinghouse.
9. The proposal would add an additional storey to the appeal property. The extension has been designed with matching features and materials to the existing building, and the scale and pitch of the roof would remain unchanged. However, the addition of the extra storey would severely disrupt the harmony of the existing terrace and would result in a property that is discordant with its immediate surroundings. The external appearance of the dwellinghouse would fail to reflect the design of the original property and the additional storey would be harmful as a result.

Amenity

10. The properties in the terrace have north-facing gardens, and as such the proposed extra storey would be likely to cause additional overshadowing of the

neighbouring rear gardens given the path of the sun to the south of the terrace. The impact in that regard would be mitigated to a degree due to the fact that most neighbouring properties already have ground floor rear extensions. However, the proposed extension would add considerable bulk and mass to the top of the property and would also result in an overbearing impact when viewed from adjacent rear gardens due to the towering presence of the taller structure. In combination these matters would cause harm to the amenity of the adjoining properties such that prior approval should not be granted.

11. As such, I find that the external appearance of the dwellinghouse and the impact on the amenity of the adjoining properties would not be acceptable and the proposal would therefore fail to accord with the requirements of paragraph AA.2.(3)(a)(i) and (ii) of Class AA.

Construction Management

12. The appellant did not submit a report for the management of the construction of the development as part of the application for prior approval. However, paragraph AA.2.(3)(b) of Class AA only requires such a report to be submitted to the Council before the beginning of development. Furthermore, paragraph AA.3.(2) sets out the documentation that must accompany an application for prior approval, and a construction management report is not included in the list. As such, the report does not have to be submitted with the prior approval application, and the proposal would accord with paragraph AA.2.(3)(b) as long as such a report is submitted before the development has commenced.

Dimensions of Proposed Windows

13. Paragraph AA.3.(2)(c)(ii) requires the application to be accompanied by a plan which is drawn to an identified scale and that shows the position and dimensions of the proposed windows. The submitted plans have been drawn to an identified scale and clearly show the position and size of the proposed windows. The dimensions are not drawn on the plan but could be measured to scale and the plans clearly show that the proposed windows would match the size and would replicate the position of the existing first-floor windows. Consequently, as the size of the proposed windows is clearly identifiable, I consider that the provision of the dimensions of these windows is not reasonably required in this case.

Conclusion

14. For the reasons given above the proposal would cause harm to the external appearance of the dwellinghouse and the impact on the amenity of the adjoining properties would not be acceptable and I therefore recommend that prior approval should not be granted having regard to the requirements of paragraph AA.2.(3)(a)(i) and (ii) of Class AA.
15. Having regard to the above, and taking account of all other matters raised, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR